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UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

PAUL G. SHEARER,

Plaintiff,

vs.

UNITED STATES OF AMERICA,
GALE NORTON, Secretary of the
Interior, the DEPARTMENT OF THE
INTERIOR, the NATIONAL PARK
SERVICE,

Defendants.

Case No. A03-0263CV (JKS)

ORDER

A Motion to Stay Responses to Written Discovery is before the Court. Docket Nos. 40 (motion); 44 (opp'n); 50 (reply).

This is a condemnation case regarding certain unpatented mining claims. Paul G. Shearer, Plaintiff and holder of the claims, seeks discovery regarding a number of claims. The Government has moved for partial summary judgment. Docket No. 39. In it, the Government concedes that one of the claims is properly before the court, but argues that a number of the others are not because Shearer failed to comply with the statutory requirements to give this court jurisdiction. Plaintiff has been given until December 9, 2005, to oppose the Motion for Partial Summary Judgment. Docket No. 43. In his opposition to the present Motion to Stay, Plaintiff asserts that he cannot properly oppose the Motion for Partial Summary Judgment at Docket No. 39 until Defendants answer his discovery requests, which are the subject of the current Motion. Finally, the Government has, in the meantime, moved to stay proceedings specifically related to the Banjo and Pass claims. Docket No. 49. This Motion is based on the pending motion at Docket No. 39, and the independent contention

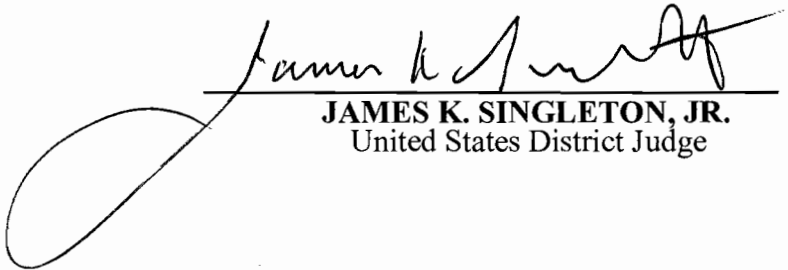
that the Banjo and Pass claims are undergoing administrative review to determine whether those claims are valid unpatented mining claims and, thus, subject to the governing law in this case, Pub. L. No. 105-83, § 120 (1998).

Defendants maintain that Plaintiff's requested discovery is not needed in order to respond to the Motion at Docket No. 39. Defendants have raised a purely legal issue and, they believe, no additional factual discovery is necessary. This Court agrees.

IT IS THEREFORE ORDERED:

The Motion to Stay at **Docket No. 40** is **GRANTED**. Responses to Plaintiff's First and Second Sets of Discovery Requests are due 45 days from a ruling on the Motion for Partial Summary Judgment at Docket No. 39. Likewise, the Motion for Stay at **Docket No. 49** is **GRANTED**. No decision on Plaintiff's claims for compensation will be made as to those matters under administrative review until the review is completed and the agency has ruled on the validity of the claims. Finally, Plaintiff shall now have until **December 16, 2005** to respond to the Motion for Partial Summary Judgment at **Docket No. 39**.

Dated at Anchorage, Alaska, this 2 day of December 2005.


JAMES K. SINGLETON, JR.
 United States District Judge

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12-2-05

✓ D. DUNSMORE (AUSA)
 ✓ P. SHEARER

ORDER